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LOK SABHA

The following Report of the Joint Committee on the Bill to consolidate and amend the law relating to arms and ammunition was presented to Lok Sabha on the 10th August, 1959:—

Composition of the Joint Committee

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Rani Manjula Devi
4. Shri Bibhuti Mishra
5. Shri Mohammad Tahir
6. Dr. Gopalrao Khedkar
7. Shri Chhaganlal M. Kedaria
8. Shri M. K. M. Abdul Salam
9. Shri R. S. Arumugam
10. Shri Vidya Charan Shukla
11. Shri K. R. Achar
12. Shri Mathew Maniyangadan
13. Shri Bhakt Darshan
14. Shri Jagan Nath Prasad Pahadia

15. Shri Raghubir Sahai
16. Shri Ansar Harvani
17. Shri Devanapalli Rajiah
18. Shri Bangshi Thakur
19. Shri Radha Charan Sharma
20. Shri Satis Chandra Samanta
21. Shri Ranbir Singh Chaudhuri
22. Shri Hirendra Nath Mukerjee
23. Shri K. K. Warior
24. Shri Mohan Swarup
25. Shri Shambhu Charan Godsora
26. Thakor Shri Fatesinhji Ghodasar
27. Shri Uma Charan Patnaik
28. Shri Atal Bihari Vajpayee
29. Shri Shankarrao Khanderao Dige
30. Shri B. N. Datar.

Rajya Sabha

31. Shri Ahmad Said Khan
32. Shri Har Prasad Saksena
33. Shrimati Maya Devi Chettry
34. Shri B. Parameswaran
35. Shri Narotham Reddy
36. Shri Onkar Nath
37. Thakur Bhanu Pratap Singh
38. Shri Govind Chandra Misra
39. Sardar Raghbir Singh Panjhazari
40. Shri P. N. Rajabhoj
41. Shri N. C. Sekhar
42. Shri Faridul Haq Ansari
43. Shri Anand Chand
44. Shri B. D. Khobaragade
45. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*

Shri A. L. Rai—*Under Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the Bill* to consolidate and amend the law relating to arms and ammunition was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 18th December, 1958. The motion for reference of the Bill to a Joint Committee of the Houses was moved in the Lok Sabha by Shri B. N. Datar, the Minister of State in the Ministry of Home Affairs, on the 23rd April, 1959 and was discussed and adopted on the same day.

3. The Rajya Sabha discussed the motion on the 28th, 29th and 30th April, 1959 and concurred in the said Motion on the 30th April, 1959.

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 4th May, 1959.

5. The Committee held ten sittings in all.

6. The first sitting of the Committee was held on the 8th May, 1959 to draw up a programme of work. After a preliminary discussion the Committee felt that it would be advantageous to take evidence from associations and others desirous of presenting their suggestions or views before the Committee and that a press communique inviting memoranda should be issued for the purpose. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to who should be called to tender oral evidence before the Committee.

7. 15 memoranda/representations on the Bill were received by the Committee from different associations and individuals.

8. On the 13th and 14th July, 1959, an exhibition of different types of arms was arranged in the Parliament House for the benefit of the members of the Committee.

9. At the third, fourth and sixth sittings of the Committee held on the 14th, 15th and 18th July, 1959 respectively, the Committee

*Published in Part II, Section 2 of the Gazette of India, Extraodinary, dated the 18th December, 1958.

heard the evidence given by the Home Secretaries to the Governments of West Bengal, Uttar Pradesh and Punjab and certain other witnesses.

The Committee decided that the whole of the evidence given before them should be laid on the Table of the House.

10. At their fifth sitting held on the 16th July, 1959, the Committee had a general discussion on the important provisions of the Bill. At their sittings held on the 20th, 21st and 22nd July, 1959, the Committee considered the Bill clause by clause.

11. The Committee considered and adopted the Report on the 4th August, 1959.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

13. *Clause* 2.—An amendment of clarificatory nature has been made in sub-clause (1) (e) (iv).

The Committee feel that bombs, grenades and other such arms and ammunition should also be included under the definitions of 'prohibited ammunition' and 'prohibited arms' in items (h) and (i) of sub-clause (1).

The clause has been amended accordingly.

14. *Clause* 3.—The Committee feel that in the proviso to the clause the words "for purposes of sport" should be omitted so that the proviso will cover all *bona fide* use of firearms including sport.

The clause has been amended accordingly.

15. *Clause* 4.—The Committee feel that, in order to avoid hardship or inconvenience to the people living in an area covered by the notification issued by the Central Government under this clause, the notification should specify the categories of arms for which licences would be required.

The clause has been amended accordingly.

16. *Clause* 5.—The Committee consider that licence should be required for manufacture, sale, etc., of firearms or ammunition of every description, but as regards other arms they feel that the rules should specify the arms for whose manufacture, sale, etc., licences would be required. So far as sale or transfer by a person of his own arms referred to in the proviso is concerned, the Committee feel that his obligation to inform the authorities of the sale or transfer

should be only in respect of such arms or ammunition as required a licence under clause 3 or clause 4.

The Committee feel that the clause should also include cases of conversion of firearms or ammunition.

The clause has been amended accordingly.

17. *Clause* 8.—The Committee feel that the time-limit of six months under the proviso to this clause should be raised to one year.

The clause has been amended accordingly.

18. *Clause* 9.—The Committee feel that the minimum age limit of persons competent to acquire firearms etc. should be sixteen years instead of eighteen years.

The Committee further feel that instead of specifying in the Act itself the age limits of persons who may receive training in the use of firearms, the age limits should be prescribed by rules.

The clause has been amended accordingly.

19. *Clause* 10.—The clause has been amended with a view to clarify the intention, *viz.*, to afford better facilities to *bona fide* tourists visiting this country.

20. *Clause* 13.—The Committee feel that in order to remove any doubt it should be provided under sub-clause (3) (a) (i) that for *bona fide* crop protection a licensing authority may grant a licence for other smooth bore guns, if it is satisfied that a muzzle loading gun will not be sufficient for such protection.

21. *Clause* 14.—The Committee feel that in sub-clause (1) (b) (ii) the intention may be clarified by adding the words "or public safety" after the words "public peace."

22. *Clause* 17.—Amendment similar to the one made in clause 14 has been made in this clause.

23. *Clause* 19.—The Committee feel that under sub-clause (2), a police officer may seize arms or ammunition which a person is carrying only in case he considers it necessary to do so.

The clause has been amended accordingly.

24. *Clause* 21.—The Committee consider that the time-limit within which a depositor or his legal representative may give his explanation under sub-clause (4) may be raised from fourteen days to thirty days.

The clause has been amended accordingly.

25. *Clause* 35.—The Committee feel that the onus of proof laid on persons in joint occupation or joint control of premises should be restricted, and only such persons in respect of whom there is reason to believe that they were aware of the existence of the arms or ammunition in the premises etc. should be held liable unless the contrary is proved.

The Committee further feel that the clause should also apply tc arms and ammunition found in vehicles besides premises and other places in joint control or occupation.

The clause has been amended accordingly.

26. *Clause* 44.—The amendment made in sub-clause (3) incorporates the new laying formula which has been agreed to by the Committee on Subordinate Legislation.

27. *Clause* 45.—The Committee feel that the forces mentioned in sub-clause (b) (iii) may also include such other forces as may be specified by notification by the Central Government.

The clause has been amended accordingly.

28. The Committee recommend that Government might—

(1) consider whether a provision could be made in the rules for allowing a licencee to use temporarily, for purposes of sport another licencee's firearms of the type for which he holds a licence;

(2) examine the question of providing in the rules for transport of properly packed firearms through an area notified by the Central Government under clause 4;

(3) give instructions to the State Governments to take a decision on applications for renewal of licences within a specified period.

29. The Joint Committee recommend that the Bill as amended be passed.

UPENDRANATH BARMAN,
Chairman,
Joint Committee.

NEW DELHI;
The 8th August, 1959.

Minutes of Dissent

I

1. It is no doubt creditable on the part of the Government to have brought forward a Bill to amend the Indian Arms Act of 1878.

2. In the statement of Objects and Reasons, it has been stated:— "The present Bill seeks in the main to liberalise the licensing provisions and to reduce the inconvenience to the public to the minimum while at the same time keeping in view the overall demands of public security and the maintenance of public order". No sane person would disagree with the laudable objectives which the Government placed before them for the amendment of the old Arms Act. But it will be worthwhile to see how far it has succeeded in translating them in the body of the Bill, just considered by the Joint Committee.

3. The main difficulty experienced while the old Act was in operation was that peaceful, law-abiding but deserving persons who wanted arms for protection or safety but who were not otherwise resourceful enough, met with innumerable difficulties in securing the licence while those who would manipulate things and pander to the wishes of the authorities felt no such difficulty.

4. The present practice is that after an application for licence is received by the D.M., he calls for a report from the Police, the Tahsil and S.D.O. in charge of that Tahsil. On the basis of these reports, he makes a final decision either in favour or against granting a licence. But while these reports are being called for, the applicant is not only mulcted of money to satisfy the demand of the Police and the Tahsil but also made to deposit considerable sums of money in several funds in which the Government felt interested. That is a different thing, he may withdraw that money soon after, which does not serve the purpose of the Government, even though the object for which the money has been demanded may be quite laudable.

5. In such cases, it has been frequently seen that money is the chief consideration in determining the grant of a licence and not the eligibility of the man. How far that difficulty would be obviated by the passage of the amended legislation will be watched with great interest. There may be many persons who may not be able to meet the demands of the authorities for subscribing to this or that fund, yet they may be genuinely in need of an Arms licence for their personal safety or protection of their property.

6. True, under the new provision of clause 13, it has been provided that the licensing authority shall grant a licence for protection or sport or for *bona fide* crop protection if the applicant does not come under any of the disqualifications mentioned in clause 14.

7. But how to get over the long and tedious and often times irksome procedure of the application passing through the Police, the Tahsil and the S.D.O.

It would have been a welcome departure if it had been specifically provided in the rules to be framed by the Government that the eligibility of the applicant would be enquired into by the Gram Sabha wherever it existed. That would not only lend importance to that primary institution but would make the process of enquiry easy. It does not mean that any other kind of enquiry was held to be a taboo, but this one needs being given a fair trial.

8. It is equally necessary that inordinate delay should not take place in the final decision of the application and the time limit should be specified in the rules. The present practice of District Magistrate entertaining those applications and deciding them one way or the other and the Commissioner hearing appeals against the order of the District Magistrate should be modified to this extent that the entertaining authority should be the S.D.O., in charge of the Tahsil, who should pass final orders while the appeal should be heard by the District Magistrate. Thus going in appeal to another District, which is more expensive and certainly would take more time, would be avoided. The S.D.O. is the person who is expected to know who is who in his Tahsil and would be in a better position to decide the eligibility or otherwise of a person for a licence. He can decide those applications much more quickly. A provision like this should be incorporated in the rules as well.

9. Our object of "reducing the inconvenience to the public to the minimum" will not be attained until and unless the rules are so framed and the State Government issue instructions in this behalf to District Magistrates to see that unnecessary restrictions are not placed in the way of those who apply for licence.

10. In order that time may be saved in conducting enquiry from different sources, it may be provided in the rules that certain kind of information deemed most necessary may be stated in the application form which may be verified by an affidavit from the applicant. The licensing authority may attach such value to the affidavit as it considers necessary but he will certainly be in a position to pass final orders without any undue delay. In case any information given

therein or statement made is subsequently found to be unfounded, not only the licence can be cancelled and arms if issued taken back, but the applicant can be run in under sections 182 or 193 I.P.C. for having given false information.

11. Then again with regard to the "overall demands of public security and the maintenance of public order", which should be borne in mind at every stage by any Government worth the name, it is a well-known fact that unauthorised and country-made arms are very common in the countryside, responsible for most of the dastardly crimes like murder and dacoity whose number has arisen to an alarming extent, of late. I find in this Bill no such provision which would tackle with this problem in the most forthright manner. Perhaps, it has been taken for granted that such arms are there in plenty, we need not worry about them so much. We need only to be vigilant about the issue of fresh licences for legal arms, as it were. In my humble opinion, this is a policy of negation. We should have given a frontal attack to the possession of unauthorised arms and their manufacture on a wide scale in the country. Those who had occasion to see the weapons in the exhibition organised by the Government for the benefit of the members of the Joint Committee, would have seen with what care and precision some of those country-made weapons were manufactured and how deadly they could be.

12. The problem of law and order is a vital one and every law-abiding citizen would give his unstinted support to the Government in adopting measures to suppress lawlessness, to root out the mania of committing murders, dacoity and robbery with the help of the unauthorised arms thereby creating a feeling of insecurity in the countryside. In this matter too, the active co-operation of the Gram Sabhas should be welcomed for in ultimate analysis, it is the people of the village who are the worst sufferers. The rules should also provide relaxation of condition for obtaining licences in areas specially infested with dacoits or border areas open to the Pakistan attacks.

13. I am giving my general support to the provisions of the Bill subject to the considerations noted above and would expect that rules will be framed in the light of the two main considerations given in the Objects and Reasons of the Bill and instructions will be issued to the District officers to comply with them so far as it was humanly possible.

NEW DELHI; RAGHUBIR SAHAI.

The 4th August, 1959.

II

The Indian Arms Act of 1860, as substituted by the Act of 1878 was intended to disarm the entire nation, and to make it impossible for another war of independence against British rule. It was inspired by a spirit of fear and distrust. As Mahatma Gandhi had put it, "Among the many misdeeds of the British rule in India, history will look upon the Act, depriving a whole nation of arms, as the blackest."

Due to the rigours of the Act and rules thereunder, law-abiding citizens have been finding it difficult to possess fire-arms for self-defence. In spite of the Act and Rules, however, terrorists, dacoits and other anti-social and anti-national elements are using not only civilian weapons but also Bombs, Grenades, Bren-guns, Sten-guns, ·303 bore service rifles and revolvers of military type, as well as country-made fire-arms of dangerous varieties for perpetrating heinous offences against society and the State.

While there are certain welcome changes in provisions relating to the licensing of fire-arms, I cannot subscribe to the Bill even though it has emerged from the Joint Committee, in a somewhat improved form. I feel that the basic approach has not changed in spite, of independence and there is still a lurking sense of suspicion and a lack of faith in our countrymen.

The discussion in the House on the Indian Arms (Amendment) Bill (No. 49 of 1953) introduced by me in the Lok Sabha and the opinions received thereon from many legal luminaries, Bar-Associations, Judges, Collectors, Senior Police Officers and local bodies have not all been taken into consideration. The present Bill, even as amended by the Joint Committee, does not satisfy the aspirations or requirements of a free country, for the following reasons:—

Firstly:—A major criticism of the existing Act of 1878 is that "Arms" includes fire-arms, bayonets, swords, daggers, spears, spear-heads and bows and arrows.....and parts of arms.....". In no other country are such articles banned as "arms"; there are some restrictions elsewhere only regarding "Firearms".

In India, too, in spite of the Act of 1878 it was found necessary to relax the restrictions under this definition. The tribesman had to use his primitive weapons for defence against wild animals; the Sikh had to bear his *kirpan* as a religious duty; the Gurkha his *kukri;* the agriculturist and householder had to possess some instrument which might come under the definition of 'arms'. Hence under Arms Rules, restrictions were withdrawn (*vide* Rule 3 and Schedule thereunder). There has been no adverse effect on the law and order situation since this withdrawal.

In the present Bill even as amended by the Joint Committee, "arms" means "articles of any description, designed or adapted as weapons for offence or defence and includes.....sharp-edged or other deadly weapons.....but does not include..... weapons, incapable of being converted into serviceable weapons". This gives a much broader connotation to "arms", than even the Act of 1878. Any sharp-edged or other article which can be adapted as a weapon of defence may come under this definition. The acquisition, possession and carrying of any such arms as may be specified in a notification may be banned in any area, in which case license will be required to be taken under clause 4. Manufacture, sale etc. of any arms as may be prescribed is banned under clause 5. Rules framed under clause 44 require a manufacturer or dealer in such arms to maintain records and accounts of transactions. Contravention of any of the aforesaid provisions will, under clause 25, make the person liable for 3 years imprisonment or with unlimited fine, or with both. Secret contraventions and intention to use such arms for unlawful purposes are punishable with seven years imprisonment or with unlimited fine, or with both. Under clause 35, "any arms.....in respect of which an offence has been or is being committed is found in any premises, vehicle or other place in the joint occupation or under joint control of several persons each of such persons in respect of whom there is reason to believe was aware of the existence of the arms in the premises, vehicle or place", is criminally liable.

The above provisions relating to so-called "arms" about whose connotation Government have not yet made up their minds, indicate the insecurity and difficulties that the new enactment will create in the country. If a notification is issued under clause 4, or if "arms" now being freely manufactured, sold and possessed are sought to be controlled under clause 5, there will not only be a heavy strain on the administrative and licensing machinery but it will also cause unnecessary harassment to persons who may possess, manufacture or sell such articles. One fails to understand why the carrying of such articles in emergencies cannot be prohibited under the provisions of the Criminal Procedure Code, or Police Acts.

There is no necessity for Government to reserve to themselves the right of depriving citizens, especially the poorer classes, who cannot go in for costly firearms, the meagre sense of security against burglars and wild animals, by possessing at least some sort of sharp-edged weapons for defensive purposes.

Secondly:—It is unfortunate that air-guns, air-rifles, air-pistols are also to be licensed. These toy weapons use small pellets and not cartridges; they are operated, not by any explosive substance

but by compressed air. They are much less dangerous than bows and arrows. They are useful only to scare away thieves or monkeys. They are also useful for young people to learn target shooting. No other country bans these air-weapons; on the other hand, they are being taken recourse to for spreading rifle-mindedness among the youth. Instead of banning, the Ordnance Factories with so much spare capacity, should be encouraged to take up their bulk manufacture. I hope that Parliament will exclude these toys from the purview of the Act.

Thirdly:—As regards firearms, the provisions are more liberal than the Act of 1878 as the word *shall* in clause 13 (3-a) is more emphatic than the word 'may' though in legal phraseology they mean the same. However, under clause 14(b-3), the licensing authority, may, for any reason, refuse to grant a license; under clause 14(3) he can also refuse to give the aggrieved person a copy of the reasons for refusal if he considers it inexpedient to do so. Further, the liberalisation of the provisions may not be of great advantage to the public for some time to come, as the price of firearms and ammunition has gone up at least four times during the last two years, since imports were restricted. Considering that possession of and training in small-arms (breech-loading guns, rifles, revolvers etc.) is desirable to make the citizens in general and residents of border tracts and dacoit-infested areas in particular, defence-minded, relaxations should have been greater, and larger provision made for the grant of free licenses. The liberal provision relating to firearms in other countries, our own experience with regard to residents of Coorg and *ex*-State areas, shows that such liberalisation will not affect the law and order situation but will ultimately be in national interests. Moreover, in spite of the objects and reasons which state, "the bill seeks to liberalise the licensing provisions and to reduce the inconvenience to the public to the minimum", there is no provision to expedite the grant of licenses and renewals. It is hoped that suitable safeguards will be provided for in the rules in this regard.

Fourthly:—The penalty-clauses show that the bill has been mechanically drafted without keeping in view the overall demands of public security. The punishments prescribed are the same whether the infringements relate to "prohibited arms and ammunition" or to commonly used firearms and ammunition or to any other article like a dagger or sword-stick designed or adapted for offence or defence. Deterrent punishments should have been provided for offences in respect of prohibited weapons or for unauthorised import and export of weapons. No tenderness for anti-social and anti-national elements is desirable. It is unfortunate that the Minister of State in the Ministry of Home Affairs and the Joint

Committee did not agree to provide for enhanced punishments in such cases and for reduction of sentences in regard to minor infringements.

Fifthly:—I submit that the Bill should reflect the spirit of a free nation and recognise the right of the State to requisition the services of every citizen in emergencies. The possessors of firearms, shikaris, target-shooters and riflemen in general (in appropriate age-groups) will be of service to the country in emergencies if the Government can properly mobilise and utilise them. Hence in my Firearms Bill, 1 of 1959, I had proposed in clause 9 for the liability of holders of licenses and permits, except those excepted individually or in specified categories for call-up in national emergencies under terms and conditions as may be prescribed.

Lastly:—While revising the outmoded Arms laws, I appeal for a positive and not for a negative approach which is essential in every sphere of national life and activity. I am one of those who firmly believe that changes in the Arms Act should be effected with a view to enthuse the people and at the same time, to train and organise the youth of the country for better discipline and for national defence.

NEW DELHI; UMA CHARAN PATNAIK.

The 6th August, 1959.

III

I take liberty to append the following few lines in order to express my personal disagreement regarding the Bill, apart from those provided therein.

The Indian Arms Act has an insipid history behind it. After Indian War of Independence of 1857 the British Rulers, being horrified by the armed might of the common man of India, deprived the whole nation of arms. They unarmed the people by putting ban on possessing and carrying the same. They denied the right of self-defence to every citizen; obviously their aim was to minimize the chances of an armed rebellion against the foreign rule, while apparently they argued that if people were permitted an unhindered use of arms, the horrible spectacle of organised crimes could break out all over the country. Thus the Indians, once famous fighters, were rendered mere strangers to the use of arms. This object was further achieved by Act XXXI of 1860 wherein the definitions of the expressions "Arms" and "Ammunition" were widened and the executive restrictions in the matter of grant of licences, not only in relation to manufacture and sale, but also to the use and

possession of arms were tightened. There was hardly any weapon of offence or defence which was not covered by the definition. Act XI of 1878 provided for disarming any Province, District or Village and made it unlawful for anyone to possess arms and ammunition without a licence. Thus the chivalrous nation of Rani Laxmi Bai, Tantia Tope and Tipu Sultan was cowed down, subjugated and totally emasculated.

How ludicrous it is that amended in minor details by Acts XII of 1891, XX of 1919 and XLIX of 1929, the spirit of Act XI of 1878 remains the same even now, when India became free from bondage.

It was only in December, 1958 that the Hon. Home Minister while replying to the debate on an unofficial Bill regarding the exemption of Muzzle Loading Gun from the definition of the Firearms Act, announced that a comprehensive Bill on Arms Law would be introduced very shortly. Expectations rose high that the Arms Laws will be liberalised and modernised to such an extent as to befit an independent nation. But to our disappointment all hopes have been shattered and a piece of legislation has been brought, which is a prototype of an old and hackneyed Arms Act of 1878 with minor changes here and there. The present law is full of teeth and with all dental operations it has accomplished little. It helps the crooks and hurts the law-abiding citizens. Definition of arms as given in the Bill should be confined only to firearms, but here in the Arms Bill, 1958 the term 'Arms' includes sharp-edged and other deadly weapons. I vehemently oppose this idea and suggest that this Bill should not include any weapons other than firearms. It is the birth right of every citizen to possess arms for the protection of his property and personal safety. But strangely it has reduced to nullity by refusing him to possess arms. Hence it is desirable that it should be named as "Fire Arms Bill, 1958" and not the "Arms Bill, 1958".

The Bill has only been liberalised to the extent that the licensing Authority cannot refuse "to grant any licence to any person, merely on the ground that such person does not own or possess sufficient property". But the term "sufficient property" has not been properly defined. In my opinion the license should be made available to any citizen of India except those who are either beggars or vagabonds or persons who are convicted for anti-social crimes.

During the discussion some of the members of the "Joint Committee" were of the opinion that a muzzle loading gun of the low velocity, ·22 bore smallbore rifle of low velocity using rim fire cartridges and air rifles should be exempted from the restriction of a license as these are quite indispensable for crop protection.

But our wishes were not conceded to. In foreign countries the citizens are required to possess firearms not as a privilege but as a part of their duty towards their motherland. We as a nation are running deficit in food grains. It is essential that the minimum amount of our food crops may be damaged and this can only be achieved if the cultivators are induced to possess harmless muzzle loading guns and there should be no license fee for such arms.

The Sub-Divisional Officers should be authorised to issue licences for the muzzle loading gun.

I feel that the Gram Panchayats should be given the right to enquire into and recommend the application for the grant of a licence, as the Panchayats are better in the know of the conduct of the applicants than the executive authorities who take a lot of time to complete their report. But the Panchayats were held "irresponsible" by the Government. It is highly regrettable.

Further, I suggest it should be made obligatory for every applicant to undergo a training in handling a firearm before a licence is granted to him. In other countries the training in small-arms is not considered merely a right but a duty of the citizen. But in our country the arms usually pass on to the hands of untrained persons. It is unfortunate that firearms as a rule are a luxury of such persons who use them for ornamental purposes.

Firearms in the hands of trained persons ensure them safety from dacoits, miscreants, make them strong and disciplined and at the time of emergency formulates a second line of defence.

In U.K. a game license is required for shooting or taking out a gun under the gun license Act. A gun license is required before a shot gun or its cartridge is carried outside the house (no gun license is required for having a gun or its cartridge within a house). Game and gun licences are obtainable at port offices and county councils' offices.

In U.S.A. the term fire arms does not include any rifle if the calibre of such rifle is ·22 or small and its barrel is 16" or more in length. But in India the possession of an arm is an exception and is generally granted to a few whose loyalty to the bureaucracy is undoubted and they are at the mercy of Police Officers who have the powers to recommend for the grant of firearms. Law breakers and dacoits are having unlimited supply of weapons, either locally-manufactured, illicitly imported, stolen from government armouries or depots but the law-abiding citizens have not got weapons for defending their person and property. This state of affairs should no longer be allowed and every citizen of India of 16 years and over should be

granted a licence for firearms when applied for, without putting any barrier against him.

I further suggest that the passing of shooting test should be a part of curriculum in all educational institutes where the age limit is 16 years or over. In U.K. the granting of licenses for possessing a firearm is as a rule free from all executive obstacles and bureaucratic officiousness. In India too the firearms Act deserves to be remodelled as its counter-part in England. But it is a dream to us and God knows when it will materialise.

A licence for ·22 bore rifle is only limited to the trainees in rifle clubs or rifle associations, while this right has been denied to those who have to practise target shooting privately at home. I feel that the law should be liberalised to facilitate those persons. The licensing authority should not be appellate authority and the appellate authority should be Commissioner of the Division. Regarding, Clause 17, sub-clause 10, the position is that after the suspension or revocation of a license the arms and the ammunition are to be surrendered to the authority and are to be deposited in the 'Malkhana'; where they deteriorate. I suggest that the licensees after suspension or revocation should get the market price of the arms and ammunition forthwith in order to save their arm from annihilation.

In Indian Arms Rules 1951 under Schedule I, a privileged class has been established whereby they are exempted in respect of arms and ammunition. This is quite undemocratic and discriminatory. As according to Fundamental Rights laid down in our Constitution all citizens of the Republic of India are equal in the eyes of law, so I suggest that these exemptions should be abolished.

Clause 20 about arrest of persons carrying firearms and ammunition.—This clause provides very wide powers to the government servants employed even in non-administrative position. I suggest that some safeguard may be provided to the citizens of our land from undue harassment. The arms and ammunition when covered with license should not come under the purview of the clause and the non-administrative officials below the rank of II Class government officials should not be empowered to arrest the persons without warrant unless there are certain reasons to believe that the arms and ammunitions are to be used for unlawful and subversive activities.

Clauses 25, 26, 27, 28.—The penalties proposed for the offences are very severe and suitable steps should be taken to see that they are in conformity with the condition prevalent in other free countries.

Clause 35.—In this clause combined responsibility has been imposed on persons who are living jointly in a premises and in other places in joint occupation or under the joint control of several persons. This is highly unjustified. Formation of Joint Cooperative Societies and Joint Agriculture Farms is being envisaged in the near future. I do not find any reason why every person is held responsible for the misdeeds of others in a joint society or a cooperative farm. The burden of proof lies only the culprits to prove their innocence.

It is regrettably noted that no liberal policy has been adopted in the Bill to issue licenses to the women in our country. As a rule when women apply for firearms a liberal policy may be adopted to issue a license on concessional fee. The women should be trained in the use of firearms. A lot of trouble or lawlessness prevailing in the society will be removed when women are trained and encouraged to face many anti-social elements in the society. We rightly anticipated that there will be less cases of robbery and rape in the society under those circumstances.

I suggest the license should be replaced by certificate.

The village Defence societies which are lying defunct in the rural areas of the country should be remodelled and rejuvenated. They should be given firearms by the Government and a reasonable quantity of ammunition may be put at their disposal in order to face the day to day unsocial activities of the dacoits and the miscreants. The members of the Defence Society should be adequately trained and their morale should be enhanced. It is desirable if any member of the society dies in discharge of his duty proper provision should be made for the maintenance of his dependents and his services should be properly recognised.

On either sides *i.e.*, East and West Pakistan border and those areas which are infested with dacoits, condition for granting licenses should be slackened to such an extent as to provide arms licences to each and everybody if he or she so desires. As a matter of national interest a subsidy and loan for the purchase of fire-arms should be granted to the inhabitants of the area, so that they can with self-confidence, face the invaders. Special provisions should be made to train them to handle fire-arms. I do not share the views of those who think that the relaxation of law of Arms would lead to the commission of more heinous crimes and a deterioration in the crime situation. I feel that judicious relaxation in granting licences will deter the law breaking element of the society. Instances have shown that the dacoits and the robbers avoid making their depredation in villages where there are several licence holders in the village.

A free grant of license, large-scale manufacture of firearms and ammunition and the cheap supply of the same will ease the situation to a great extent. Further net-work of rifle clubs with proper training facilities will, apart from imparting a spirit of self-reliance and self-help and fearlessness, go a long-way in setting a second line of defence and an effective check for law-breakers.

I strongly suggest that expansion of markmanship training under government supervision be made forthwith. It could eventually convert all able-bodied citizens into a national military asset.

It is said that it is the business of police to protect the people of the country and their properties, individually and collectively. But when the police officers are themselves being looted, how a common man can be protected.

NEW DELHI; MOHAN SWARUP.
The 7th August, 1959.

IV

I regret I cannot agree with the views of the majority of the Committee. The Committee has made some changes in the Bill, but I feel that the measure is more restrictive than it should be.

The Arms Act of 1878 was enacted by the British Government to disarm the people of India for their own safety and security. Now we are a sovereign and independent nation, and therefore there should be as few restrictions as possible for acquiring and possessing arms. I am of the opinion that the reduction of restrictions to a minimum will not have any adverse effect on the law and order situation. For example, in many former Indian States there was no restriction on possessing fire-arms, and it did not have any adverse effect, but on the contrary it helped to maintain law and order. A certain class of people in Coorg are enjoying exemption from the Arms Act. The Sikhs are allowed to carry *kirpans*, and the Gurkhas are allowed to carry *Kukris*. All this did not have any adverse effect in the maintenance of law and order and peace. The only people to suffer by the imposition of more restrictions are the law abiding and peace loving citizens. They remain unarmed and unprotected, while the dacoits, offenders and such other anti-social people somehow get whatever arms they require for their unlawful activities.

I, therefore, feel that the people should be encouraged to possess fire-arms and to learn how to use them. For that purpose all types of air rifles, air guns, and Air pistols should be kept out of the operation of this Act. But unfortunately amendments of this nature were not accepted. I fail to understand how Air rifles, Air guns, and Air

pistols can be used for unlawful activities. Is it thought that air rifles and air guns will be used by dacoits and such other offenders? Air rifles and air guns and air pistols are not lethal weapons. No license is required to possess more deadly arms like swords, spears, and bows and arrows. So I think there is no reason to regulate the possession of air rifles, guns, and pistols.

According to clause 13 (3) (a) (i) licences will be granted to cultivators to possess muzzle loading guns for *bona-fide* crop protection. These guns become useless in monsoon, because the powder and percussion caps which are used to fire these guns become moist, and will not fire. Moreover, when these guns are once fired it takes a long time to reload them. If a cultivator fires a shot at a wild boar, and if the boar attacks, the cultivator will not be able to defend himself, because he will have no time to reload his gun and fire again at the attacking animal. On the other hand, if he has a breech-loading gun, he will be more safe, and will be able to protect his crops better. He should, therefore, be entitled to get a licence for a breech-loading gun if he chooses to have it for the protection of his crops. According to proviso to clause 13(3) (a) (i) authority has been given to the licensing authority to decide whether a cultivator should be given a licence for a breech-loading gun or not—I think this is not proper.

In clause 14(3) it has been provided that when the licensing authority refuses to grant a licence, it shall record in writing the reasons for the refusal, and also furnish the applicant with a statement summarising the reasons. It has also been laid down in the said clause that the licensing authority need not reveal to the applicant the reasons for denying him a licence if it thinks that it will not be in the public interest to do so. It is difficult to imagine any circumstances in which revealing the reasons for rejection will hurt public interest. In clause 18(1) there is a provision for appeal against the licensing authority's decision, and clause 18 (5) provides that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard. But if the appellate authority also agrees with the licensing authority that the reasons for refusing the licence cannot be disclosed, the appellant will be denied a reasonable opportunity of getting the licensing authority's decision revoked. I, therefore, feel that the licensing authority should not be given such wide and discretionary powers.

I also feel that the Bill should be confined to firearms only and other arms excluded from its purview.

THAKOR SHRI FATEHSINHJI GHODASAR.

NEW DELHI;
The 8th August, 1959.

V

We regret, we are unable to associate ourselves fully with the report of the majority of our colleagues in the Joint Committee. It is rather strange that a Bill professing itself to contain liberal provisions regarding licensing and seeking to reduce the inconveniences caused to the public in respect of requisition and possession of arms reveals on a careful scrutiny that the overall effect of passing the same as law of the country will be to impose severer and more drastic restrictions than those prevailing under the existing law. In our view the report of the majority has not succeeded in reducing the restrictions and inconveniences caused by the provisions of the Bill.

We believe that the Indian Arms Act of 1878 intended solely to disarm the Indian citizens to suit the convenience of the British Rulers must be replaced by an enactment which maintains the right of every free citizen of India to possess or acquire any kind of arms (whether firearms or not) consistent with the demand of the State to maintain public peace and security.

At the outset we may point out that the short title of the enactment itself must be changed as "Firearms Bill" and consistent with such change the definition of "Arms" contained in clause 2(1) (c) of the Bill should be omitted and consequential drafting changes must be made by substituting the word "firearms" for the words "arms" occurring in the various clauses of the Bill. The above change is suggested to take out of the ambit of the enactment the acquiring and possession of sharp-edged weapons like daggers, swords, or even pen-knives.

We find that clause 4 of the Bill in the form in which it is accepted by the report of the majority will have dangerous consequences. Often armed dacoits and violent mobs attack innocent villagers and residents of a locality and if a notification as is contemplated in clause (4) is prevailing in that locality then these unfortunate persons will be without even ordinary weapons of defence such as knives, axe or hatchet. Even conceding that going about armed with knives or daggers or other arms other than firearms are to be prevented in a trouble spot, we are of the view that a person shall not be debarred from acquiring or possessing arms other than firearms in his place of residence with the intention of defending himself and his family from any unprovoked attack that may arise in a trouble spot. We suggest, therefore, that the words "acquisition, possession" along with the words "acquire, have in his possession or" occurring in clause (4) of the Bill should be deleted.

Then with regard to the procedure prescribed for obtaining a licence we feel that the liberalisation sought to be introduced is ren-

dered illusory by conferring arbitrary and unguided discretion on the licensing authority to refuse a license.

We find that in U. K. Firearms law a provision for appeal before the Quarter Session is provided in similar contingencies and we suggest that this can be allowed with advantage by making suitable provision for an appeal before the judiciary (say the District and Sessions Court) from an order refusing to grant a license. The present provision for an appeal before the Executive authority, we believe, cannot serve any useful purpose since more often than not official red-tapism has evolved the foot-rule of confirming the orders of the subordinate officers.

NEW DELHI; N. C. SEKHAR
The 8th August, 1959. K. K. WARIOR
HIRENDRANATH MUKHERJEE*

VI

As I do not agree, in certain respects with the views of the majority of members of the Committee, I deem it necessary to express my views of dissent in a separate note.

The Arms Bill has been introduced with a view to liberalise the law about acquisition and possession of arms. But in my opinion, some provisions of this Bill which seek to impose restrictions on possession of sharp-edged but simple arms like daggers are not in consonance with this avowed policy.

The Act should regulate the acquisition and possession of firearms only. But this Bill provides to regulate the acquisition and possession of not only the firearms but the simple arms as well. Of course, it is true that the restrictions on possession of such ordinary arms are to be imposed only during emergency and when the Central Government thinks it necessary or expedient to do so. But even then it is not necessary to incorporate these provisions in this Bill. Criminal Procedure Code, Police Act and other existing penal laws are quite sufficient and adequate to meet any such emergency. Moreover, as these sections are to be invoked only during emergency, it will be difficult to enforce this law effectively. It will not serve any useful purpose. On the contrary, there is every possibility that this law will be misused to harass innocent and peace-loving citizens.

Air-rifles should have been completely exempted from the provisions of this Bill. Air-rifle is entirely different from other firearms.

*Certificate required under direction 87 of the 'Directions by the Speaker under the Rules of Procedure of Lok Sabha' not furnished.

It is not a dangerous weapon. It is mostly used for target practice. If we desire that the people should be able to defend themselves against the foreign invaders or local robbers, dacoits, hooligans and other anti-social elements, then it is not sufficient to arm them. It is essential to train the civilian populace in marksmanship. Already very few facilities are provided for training and practice in marksmanship. Any restrictions on use and possession of air-rifles will hamper the progress in this respect.

If the people are to be proficient in shooting, the training should be imparted to them at an early age. According to the provisions of this Bill, no person who has not attained the age of sixteen can obtain a licence for possession of an air-rifle. Even for target practice, licences in respect of air-rifles are to be given only to the members of rifle clubs or associations recognised by the Central Government. There are exceptionally few places in India where there are rifle clubs or associations. It means that where there are no clubs, no individual person who has not attained the age of sixteen, can obtain a licence for possession of an air-rifle even for target practice. The result is obvious. A large number of young persons desirous of training themselves in marksmanship will be deprived of such opportunity.

For these reasons, it is submitted that the air-rifles should be exempted from the provisions of this Act. If for any reason it is not acceptable, then at least the provision should be made in this Act itself to allow the young boys who have attained the age of twelve years to possess and use air-rifles for target practice irrespective of whether they are members of any rifle club or not so that they can get proper opportunities to develop themselves into perfect marksmen.

BOMBAY; B. D. KHOBARAGADE

The 7th August, 1959.

VII

1. Generally I am in agreement with the conclusions of the majority of the members of the Committee and I agree with the report as a whole. However, I find it necessary to make a few observations on some of the sections. The statement of objects and reasons refers to the liberal policy the Government have followed after independence. It is in agreement with "that view of" liberalizing the policy, I am adding this note.

2. It is a well known fact that an ordinary citizen, especially a villager, used to find it very difficult to obtain a licence for even

an ordinary gun without pleasing the police authorities. No doubt the licensing authority is a District Magistrate or some other responsible officer. Even then the licences are not issued without consulting the police authorities. This led to considerable corruption also. I am not inclined to think the conditions have very much improved in this matter, after we have attained independence. I am anxious that an ordinary citizen like a farmer should be able to get the required licence without any difficulty and it should not depend on the favourable disposition of the police officials. I represent an area (Coorg) where under the exemption granted by the rules framed under the old Arms Act Coorg, (Kodawas) and Jumma tenure holders are allowed to own certain kind of fire-arms without a licence (*vide* Schedule 1, Rule 4 of the Indian Arms Rules, 1951). They have enjoyed this privilege ever since the fire-arms were known and nothing untoward has happened there. In fact late Sardar Vallabh Bhai Patel is reported to have remarked that if people were like Coorgis he would grant such exemption to all parts of India. I wish very much the Government could go to the extent of allowing the whole of India some privileges as are enjoyed in Coorg. However, this may not be possible to do so under the present conditions.

3. The following points may be considered and the Bill liberalised at least to that extent.

Section 2(c): By using the word "solely" in this definition, there is scope for contending and interpreting that weapons even designed for domestic purposes but which may be used for other purposes as "weapons". Hence, I suggest that the word "solely" may be omitted.

Section 13: *Clause* 3(b): The burden is on the applicant for licence to prove that he "has a good reason for obtaining the same". I am of the view that the burden should be shifted on the persons who wish to restrict the rights of an independent citizen at least with regard to the license under sections 4, 5 and 6.

Section 14 (1) (*b*) 3: By this single clause the entire liberalising policy of the Government is in danger. Though under Section 13 Clause 3 (a) (i) and (ii) the granting of licence should be the rule and not granting should be the exception, the effect of this clause is taken away by the use of the words in sub-clause (3) namely, "to be for any reason unfit for licence for this act." It is so wide that any one can be refused a licence.

Section 18: This section providing an appeal to higher authorities assumes considerable importance in view of the provisions of section 14. No doubt, a departmental appeal is allowed. But I

think, it is completely inadequate. I am of the opinion that an appeal should be provided to the highest judicial authority of the area, a District Judge or a similar Officer. As I have already stated, it is usually the police that control the issue of these licences. In fact, in the course of evidence it was admitted that the issue of licenses did not often depend on the merits of each case, but on the percentage allowed by the authorities. This position has led to considerable corruption also. There is an impression in the country that licences cannot be procured without satisfying the police and other authorities. This position will entirely change if an appeal is allowed to the District Judge. In England, an appeal to the Judicial authority is provided. The only argument put forward against such a provision, here, is that the District Judge may not be able to appreciate the law and order situation of the area. It is too difficult to understand this argument that a judicial officer of the status of a District Judge will not be able to appreciate the situation. On the other hand, it creates the impression that the department is not prepared to trust the judiciary. Further, it gives additional strength to the impression that the Police authorities have the final say in the matter, as it is only a departmental appeal. Not only justice should be done, but should appear to be done. Every citizen who applies for a licence should be satisfied that the justice will be done to him and he need not depend on the favours of the Police authorities. Hence, I am of the view that an appeal either to the District Judge or where there is no such Judge to the Judicial authority who is discharging the functions of a District Judge, should be provided for.

4. I have referred to the position of the Coorgis and Jumma holders of Coorg. The present act is for liberalizing the Arms Act and I would like to point out that at least the *status quo* in Coorg should be maintained under the rules to be framed under section 41 of the Act.

NEW DELHI; K. R. ACHAR

The 8th August, 1959.

VIII

The present Bill seeks to repeal the Indian Arms Act enacted by the British rulers eighty years ago with a view to disarm the whole nation. Apart from the considerations of safeguarding the Empire, this policy of depriving the whole people of arms was motivated in the main by a sense of deep distrust and an attitude of contempt towards the Indian people. I am sorry to note that even after twelve years of independence, the present Government have not been able

to shake off completely the legacy of their predecessors. The present Bill as reported by the Joint Committee is an improvement on the original Bill no doubt, but traces of this distrust linger still, and restrain the Bill from going as far it should. Hence this note of dissent.

The right to bear and carry arms is an inviolable and sacred right of every free citizen and though this has not been included in the list of fundamental rights enumerated in the Indian Constitution, the right of self-defence accepted and guaranteed by the Indian Penal Code implicitly acknowledges the right to possess arms. Since India is not in a position to run into a race of armaments with big Powers, or their satellites, surrounding our boundaries and having hostile and expansionist designs against us, the only course open for us is to arm our people and make military training compulsory for all adult and able bodied citizens.

I strongly feel that provisions of the present Bill should have been confined to firearms only. As regards arms, other than firearms, every citizen should be normally allowed to possess and carry them and even in cases of emergency, envisaged under Clause 4 of the present Bill, restrictions ought to be placed only on stock-piling or carrying of arms and not on their possession. The Home Secretary of the Punjab in his evidence before the Committee has clearly stated that the fact that Sikhs have a right to possess and carry *kirpans* with them under the Constitution has not adversely affected the law and order situation in the State in any way. There is no reason why any discrimination be made between Sikhs and non-Sikhs so far as the possession and carrying of arms, other than firearms, for the purpose of self-defence, is concerned. In cases of emergency, the government can impose reasonable restrictions on the display of such arms and for that Police Acts or provisions of the Indian Penal Code are adequate and no special powers, as provided for under the present Bill, should be required.

Under Clause 2 of the present Bill, the definition of the term "Arms" is very wide. It includes all articles of any description designed or adapted as weapons for offence or defence. Articles designed solely for domestic or agricultural uses and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons, have been excluded; but "sharp-edged, and other deadly weapons" should be precisely defined so as not to leave any room for doubt or confusion.

The present Bill seeks to liberalise the licensing provisions, but the liberalisation is very halting, the procedure of securing a licence

still remains irksome and dilatory, and the licence-seeker left to the whims and caprices of the bureaucracy.

Clause 14 empowers the licencing authority to refuse a licence on the ground that "such licence is required by a person whom the licensing authority has reason to believe to be for any reason unfit for a licence". Furthermore, he can refuse even to furnish reasons for such refusal if he thinks that it will not be in "the public interest" to do so. Now if licensing authorities are to refuse licences "for any reason" and are not even to be called upon to disclose these reasons, the avowed object of liberalising the licensing provisions will be nullified. The power conferred by clause 14(b)(3) is likely to be abused or misused to cloak acts of political discrimination, extremely rampant these days in respect of grant of licenses. It is for the Lok Sabha to amend this clause in such a way as to make it obligatory for the licensing authority to furnish a statement recording reasons for the refusal of licenses in all cases without any exception.

In regard to clause 13, the licensing authority should not be given the discretion of refusing to grant a licence of a smooth bore gun, sought for crop protection. A muzzle loading gun cannot be operated upon during the training season. Hence granting of licences for other smooth bore guns for the purpose of crop protection should not depend upon the discretion of the authorities but should be made obligatory. I would like to go a step forward and suggest that farmers should be given licences freely even for breach-loading guns so that it could serve both the purposes namely, protection of the person and protection of his crop.

Clause 18 of the Bill provides for appeals against the order of the licensing authority. But the appellate authority envisaged in the Bill is to be an executive officer. I strongly feel that if new provisions providing for appeals are to be of any real advantage to the people, the appeals should lie to a judicial authority who will bring upon his judicial mind in order to see whether the reasons due to which licence is refused are strictly legal and whether relevant provisions of the law have been applied or not.

Under clause 20 the power of arrest of persons conveying arms etc. under suspicious circumstances has been conferred not only upon "magistrates or police officers" but also any other public servant or any person employed or working upon a railway... It means that a railway porter who knows nothing about the Arms Act may arrest or detain any *bona fide* passenger on mere suspicion. The clause confers very wide powers upon those who are likely to abuse them. It should be suitably amended.

I regret to note that it has not been possible for the Committee to provide for the early disposal of applications for licences. I know cases in which applications are kept pending for years together and no action is taken unless certain pressure, official or otherwise, is put on the licensing authority. To avoid inordinate delays in granting licences, it is necessary that some time limit should be fixed within which an application for licence must be disposed of. The Government have promised to issue instructions to the Executive to see that issuing of licences is expedited. But experience of executive instructions gained so far is not very heartening. Any how if procedure of issuing licences is not simplified and effective steps taken to expedite the matters the whole purpose of liberalisation will be defeated.

NEW DELHI; ATAL BIHARI VAJPAYEE

The 8th August, 1959.

Bill No. 138 B of 1958.

THE ARMS BILL, 1958

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

to consolidate and amend the law relating to arms and ammunition.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Arms Act, 1959.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions and interpretation.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "acquisition", with its grammatical variations and cognate expressions, includes hiring, borrowing, or accepting as a gift;

(*b*) "ammunition" means ammunition for any firearm, and includes—

(*i*) rockets, bombs, grenades, shells and other like missiles,

(*ii*) articles designed for torpedo service and submarine mining,

(*iii*) other articles containing, or designed or adapted to contain, explosive, fulminating or fissionable material or noxious liquid, gas or other such thing, whether capable of use with firearms or not,

(*iv*) charges for firearms and accessories for such charges,

(*v*) fuses and friction tubes,

(*vi*) parts of, and machinery for manufacturing, ammunition, and

(*vii*) such ingredients of ammunition as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(c) "arms" means articles of any description designed or adapted as weapons for offence or defence, and includes firearms, sharpedged and other deadly weapons, and parts of, and machinery for manufacturing, arms, but does not include articles designed solely for domestic or agricultural uses and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons;

(d) "district magistrate", in relation to a presidency-town or the city of Hyderabad, means the Commissioner of Police thereof;

(e) "firearms" means arms of any description designed or adapted to discharge a projectile or projectiles of any kind by the action of any explosive or other forms of energy, and includes—

(*i*) artillery, hand-grenades, riot-pistols or weapons of any kind designed or adapted for the discharge of any noxious liquid, gas or other such thing,

(*ii*) accessories for any such firearm designed or adapted to diminish the noise or flash caused by the firing thereof,

(*iii*) parts of, and machinery for manufacturing, firearms, and

(*iv*) carriages, platforms and appliances for mounting, transporting and serving artillery;

(f) "licensing authority" means an officer or authority empowered to grant or renew licences under rules made under this Act, and includes the Government;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "prohibited ammunition" means any ammunition containing, or designed or adapted to contain, any noxious liquid, gas or other such thing, and includes rockets, bombs, grenades, shells, articles designed for torpedo service and submarine mining and such other articles as the Central Government may, by notification in the Official Gazette, specify to be prohibited ammunition;

(*i*) "prohibited arms" means—

(*i*) firearms so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty, or

(*ii*) weapons of any description designed or adapted for the discharge of any noxious liquid, gas or other such thing, and includes artillery, anti-aircraft and anti-tank firearms and such other arms as the Central Government may, by notification in the Official Gazette, specify to be prohibited arms;

(*j*) "public servant" has the same meaning as in section 21 of the Indian Penal Code; 45 of 1860

(*k*) "transfer", with its grammatical variations and cognate expressions, includes letting on hire, lending, giving and parting with possession.

(2) For the purposes of this Act, the length of the barrel of a firearm shall be measured from the muzzle to the point at which the charge is exploded on firing.

CHAPTER II

ACQUISITION, POSSESSION, MANUFACTURE, SALE, IMPORT, EXPORT AND TRANSPORT OF ARMS AND AMMUNITION

Licence for acquisition and possession of firearms and ammunition.

3. No person shall acquire, have in his possession, or carry any firearm or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

Provided that a person may, without himself holding a licence, carry any firearm or ammunition in the presence, or under the written authority, of the holder of the licence for repair or for renewal of the licence or for use by such holder

Licence for acquisition and possession of arms of specified description in certain cases.

4. If the Central Government is of opinion that having regard to the circumstances prevailing in any area it is necessary or expedient in the public interest that the acquisition, possession or carrying of arms other than firearms should also be regulated, it may, by notification in the Official Gazette, direct that this section shall apply to the area specified in the notification, and thereupon no person shall acquire, have in his possession or carry in that area arms of such class or description as may be specified in that notification unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder.

Licence for manufacture, sale, etc., of arms and ammunition.

5. No person shall—

(*a*) manufacture, sell, transfer, convert, repair, test or prove, or

(*b*) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof,

any firearm or any other arms of such class or description as may be prescribed or any ammunition, unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

Provided that a person may, without holding a licence in this behalf, sell or transfer any arms or ammunition which he lawfully possesses for his own private use to another person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having, in his possession, such arms or ammunition; but the person who has sold or transferred any firearm or ammunition in respect of which a licence is required under section 3 or any arms in respect of which a licence is required under section 4, shall, immediately after the sale or transfer, inform in writing the district magistrate having jurisdiction or the officer in charge of the nearest police station, of such sale or transfer and the name and address of the other person to whom the firearm, ammunition or other arms has or have been sold or transferred.

Licence for the shortening of guns or conversion of imitation firearms into firearms.

6. No person shall shorten the barrel of a firearm or convert an imitation firearm into a firearm unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder.

Explanation.—In this section, the expression "imitation firearm" means anything which has the appearance of being a firearm, whether it is capable of discharging any shot, bullet or other missile or not.

Prohibition of acquisition or possession, or of manufacture or sale, of prohibited arms or prohibited ammunition.

7. No person shall—

(*a*) acquire, have in his possession or carry; or

(*b*) manufacture, sell, transfer, convert, repair, test or prove; or

(*c*) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof;

any prohibited arms or prohibited ammunition unless he has been specially authorised by the Central Government in this behalf.

Prohibition of sale or transfer of firearms not bearing identification marks.

8. (*1*) No person shall obliterate, remove, alter or forge any name, number or other identification mark stamped or otherwise shown on a firearm.

(*2*) No person shall sell or transfer any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon in a manner approved by the Central Government.

(*3*) Whenever any person has in his possession any firearm without such name, number or other identification mark or on which such name, number or other identification mark has been obliterated, removed, altered or forged, it shall be presumed unless the contrary is proved, that he has obliterated, removed, altered or forged that name, number or other identification mark:

Provided that in relation to a person who has in his possession at the commencement of this Act any firearm without such name, number or other identification mark stamped or otherwise shown thereon, the provisions of this sub-section shall not take effect until after the expiration of one year from such commencement.

Prohibition of acquisition or possession by, or of sale or transfer to young persons and certain other persons of firearms, etc.

9. (*1*) Notwithstanding anything in the foregoing provisions of this Act,—

(*a*) no person,—

(*i*) who has not completed the age of sixteen years, or

(*ii*) who has been sentenced on conviction of any offence involving violence or moral turpitude to imprisonment for a term of not less than six months, at any time during a period of five years after the expiration of the sentence, or

(*iii*) who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1898, a bond for keeping the peace or for good behaviour, at any time during the term of the bond,

5 of 1898.

shall acquire, have in his possession or carry any firearm or ammunition;

(*b*) no person shall sell or transfer any firearm or ammunition to, or convert, repair, test or prove any firearm or ammunition for, any other person whom he knows, or has reason to believe—

(*i*) to be prohibited under clause (*a*) from acquiring, having in his possession or carrying any firearm or ammunition, or

(*ii*) to be of unsound mind at the time of such sale or transfer, or such conversion, repair, test or proof.

(*2*) Notwithstanding anything in sub-clause (*i*) of clause (*a*) of sub-section (*1*), a person who has attained the prescribed age-limit may use under prescribed conditions such firearms as may be prescribed in the course of his training in the use of such firearms:

Provided that different age-limits may be prescribed in relation to different types of firearms.

Licence for import and export of arms, etc.

10. (*1*) No person shall bring into, or take out of, India by sea, land or air any arms or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

Provided that—

(*a*) a person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having, in his possession any arms or ammunition, may without a licence in this behalf bring into, or take out of, India such arms or ammunition in reasonable quantities for his own private use;

(*b*) a person being a *bona fide* tourist belonging to any such country as the Central Government may, by notification in the Official Gazette, specify, who is not prohibited by the laws of that country from having in his possession any arms or ammunition, may, without a licence under this section but in accordance with such conditions as may be prescribed, bring with him into India arms and ammunition in reasonable quantities for use by him for purposes only of sport and for no other purpose;

Explanation.—For purposes of clause (*b*) of this proviso, the word "tourist" means a person who not being a citizen of India visits India for a period not exceeding six months with no other object than recreation, sight-seeing, or participation in a

representative capacity in meetings convened by the Central Government or in international conferences, associations or other bodies.

(2) Notwithstanding anything contained in the proviso to sub-section (1), where the collector of customs or any other officer empowered by the Central Government in this behalf has any doubt as to the applicability of clause (a) or clause (b) of that proviso to any person who claims that such clause is applicable to him, or as to the reasonableness of the quantities of arms or ammunition in the possession of any person referred to in such clause, or as to the use to which such arms or ammunition may be put by such person, may detain the arms or ammunition in the possession of such person until he receives the orders of the Central Government in relation thereto.

(3) Arms and ammunition taken from one part of India to another by sea or air or across any intervening territory not forming part of India, are taken out of, and brought into, India within the meaning of this section.

Power to prohibit import or export of arms, etc.

11. The Central Government may, by notification in the Official Gazette, prohibit the bringing into, or the taking out of, India, arms or ammunition of such classes and descriptions as may be specified in the notification.

Power to restrict or prohibit transport of arms.

12. (1) The Central Government may, by notification in the Official Gazette,—

(a) direct that no person shall transport over India or any part thereof arms or ammunition of such classes and descriptions as may be specified in the notification unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder; or

(b) prohibit such transport altogether.

(2) Arms or ammunition trans-shipped at a seaport or an airport in India are transported within the meaning of this section.

CHAPTER III

PROVISIONS RELATING TO LICENCES

Grant of licences.

13. (1) An application for the grant of a licence under Chapter II shall be made to the licensing authority and shall be in such form, contain such particulars and be accompanied by such fee, if any, as may be prescribed.

(2) On receipt of an application, the licensing authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same.

(3) The licensing authority shall grant—

(a) a licence under section 3 where the licence is required—

(i) by a citizen of India in respect of a smooth bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a muzzle loading gun to be used for *bona fide* crop protection: *

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle loading gun will not be sufficient for crop protection, the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection, or

(ii) in respect of a point 22 bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognised by the Central Government;

(b) a licence under section 3 in any other case or a licence under section 4, section 5, section 6, section 10 or section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same.

Refusal of licences.

14. (1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant—

(a) a licence under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II,—

(i) where such licence is required by a person whom the licensing authority has reason to believe—

(1) to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition, or

(2) to be of unsound mind, or

(3) to be for any reason unfit for a licence under this Act; or

(*ii*) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(*2*) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(*3*) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

Duration and renewal of licence.

15. (*1*) A licence under section 3 shall, unless revoked earlier, continue in force for a period of three years from the date on which it is granted:

Provided that such a licence may be granted for a shorter period if the person by whom the licence is required so desires or if the licensing authority for reasons to be recorded in writing considers in any case that the licence should be granted for a shorter period.

(*2*) A licence under any other provision of Chapter II shall, unless revoked earlier, continue in force for such period from the date on which it is granted as the licensing authority may in each case determine.

(*3*) Every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence was originally granted and shall be so renewable from time to time, and the provisions of sections 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof.

Fees, etc., for licence.

16. The fees on payment of which, the conditions subject to which and the form in which a licence shall be granted or renewed shall be such as may be prescribed:

Provided that different fees, different conditions and different forms may be prescribed for different types of licences:

Provided further that a licence may contain in addition to prescribed conditions such other conditions as may be considered necessary by the licensing authority in any particular case.

Variation, suspension and revocation of licences.

17. (*1*) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

(*2*) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(*3*) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence,—

(*a*) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(*b*) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(*c*) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

(*d*) if any of the conditions of the licence has been contravened; or

(*e*) if the holder of the licence has failed to comply with a notice under sub-section (*1*) requiring him to deliver-up the licence.

(*4*) The licensing authority may also revoke a licence on the application of the holder thereof.

(*5*) Where the licensing authority makes an order varying a licence under sub-section (*1*) or an order suspending or revoking a licence under sub-section (*3*), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(*6*) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

Appeals.

18. (1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by, or under the direction of, the Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder.

9 of 1908.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

CHAPTER IV

POWERS AND PROCEDURE

Power to demand production of licence, etc.

19. (1) Any police officer or any other officer specially empowered in this behalf by the Central Government may demand the production of his licence from any person who is carrying any arms or ammunition.

(2) If the person upon whom a demand is made refuses or fails to produce the licence or to show that he is entitled by virtue of this Act or any other law for the time being in force to carry such arms or ammunition without a licence, the officer concerned may require him to give his name and address and if such officer considers it necessary, seize from that person the arms or ammunition which he is carrying * * * *

(3) If that person refuses to give his name and address or if the officer concerned suspects that person of giving a false name or address or of intending to abscond, such officer may arrest him without warrant.

Arrest of persons conveying arms, etc., under suspicious circumstances.

20. Where any person is found carrying or conveying any arms or ammunition whether covered by a licence or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are or is being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any magistrate, any police officer or any other public servant or any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, may arrest him without warrant and seize from him such arms or ammunition.

Deposit of arms, etc., on possession ceasing to be lawful.

21. (1) Any person having in his possession any arms or ammunition the possession whereof has, in consequence of the expiration of the duration of a licence or of the suspension or revocation of a licence or by the issue of a notification under section 4 or by any reason whatever, ceased to be lawful, shall without unnecessary

delay deposit the same either with the officer in charge of the nearest police station or subject to such conditions as may be prescribed, with a licensed dealer or where such person is a member of the armed forces of the Union, in a unit armoury.

Explanation.—In this sub-section "unit armoury" includes an armoury in a ship or establishment of the Indian Navy.

(*2*) Where arms or ammunition have or has been deposited under sub-section (*1*), the depositor or in the case of his death, his legal representative, shall, at any time before the expiry of such period as may be prescribed, be entitled—

(*a*) to receive back anything so deposited on his becoming entitled by virtue of this Act or any other law for the time being in force to have the same in his possession, or

(*b*) to dispose, or authorise the disposal, of anything so deposited by sale or otherwise to any person entitled by virtue of this Act or any other law for the time being in force to have, or not prohibited by this Act or such other law from having, the same in his possession and to receive the proceeds of any such disposal:

Provided that nothing in this sub-section shall be deemed to authorise the return or disposal of anything of which confiscation has been directed under section 32.

(*3*) All things deposited and not received back or disposed of under sub-section (*2*) within the period therein referred to shall be forfeited to Government by order of the district magistrate:

Provided that in the case of suspension of a licence no such forfeiture shall be ordered in respect of a thing covered by the licence during the period of suspension.

(*4*) Before making an order under sub-section (*3*) the district magistrate shall, by notice in writing to be served upon the depositor or in the case of his death, upon his legal representative, in the prescribed manner, require him to show cause within thirty days from the service of the notice why the things specified in the notice should not be forfeited.

(*5*) After considering the cause, if any, shown by the depositor or, as the case may be, his legal representative, the district magistrate shall pass such order as he thinks fit.

(*6*) The Government may at any time return to the depositor or his legal representative things forfeited to it or the proceeds of disposal thereof wholly or in part.

Search and seizure by magistrate.

22. (1) Whenever any magistrate has reason to believe—

(a) that any person residing within the local limits of his jurisdiction has in his possession any arms or ammunition for any unlawful purpose, or

(b) that such person cannot be left in the possession of any arms or ammunition without danger to the public peace or safety,

the magistrate may, after having recorded the reasons for his belief, cause a search to be made of the house or premises occupied by such person or in which the magistrate has reason to believe that such arms or ammunition are or is to be found and may have such arms or ammunition, if any, seized and detain the same in safe custody for such period as he thinks necessary, although that person may be entitled by virtue of this Act or any other law for the time being in force to have the same in his possession.

(2) Every search under this section shall be conducted by or in the presence of a magistrate or by or in the presence of some officer specially empowered in this behalf by the Central Government.

Search of vessels, vehicles for arms, etc.

23. Any magistrate, any police officer or any other officer specially empowered in this behalf by the Central Government, may for the purpose of ascertaining whether any contravention of this Act or the rules made thereunder is being or is likely to be committed, stop and search any vessel, vehicle or other means of conveyance and seize any arms or ammunition that may be found therein alongwith such vessel, vehicle or other means of conveyance.

Seizure and detention under orders of the Central Government.

24. The Central Government may at any time order the seizure of any arms or ammunition in the possession of any person, notwithstanding that such person is entitled by virtue of this Act or any other law for the time being in force to have the same in his possession, and may detain the same for such period as it thinks necessary for the public peace and safety.

CHAPTER V

OFFENCES AND PENALTIES

Punishment for certain offences

25. (1) Whoever—

(a) acquires, has in his possession or carries any firearm or ammunition in contravention of section 3; or

(b) acquires, has in his possession or carries * * * * * in any place specified by notification under section 4 any arms of such class or description as has been specified in that notification, in contravention of that section; or

(c) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or

(d) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or

(e) acquires, has in his possession or carries, or manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7; or

(f) sells or transfers any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon as required by sub-section (2) of section 8 or does any act in contravention of sub-section (1) of that section; or

(g) being a person to whom sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or

(h) sells or transfers, or converts, repairs, tests or proves any firearm or ammunition in contravention of clause (b) of sub-section (1) of section 9; or

(i) brings into, or takes out of, India any arms or ammunition in contravention of section 10; or

(j) brings into, or takes out of, India, arms or ammunition of any class or description in contravention of section 11; or

(k) transports any arms or ammunition in contravention of section 12; or

(l) fails to deposit arms or ammunition as required by sub-section (1) of section 21; or

(m) being a manufacturer of, or dealer in, arms or ammunition, fails, on being required to do so by rules made under section 44, to maintain a record or account or to make therein all such entries as are required by such rules or intentionally makes a false entry therein or prevents or obstructs the inspection of such record or account or the making of copies of entries therefrom or prevents or obstructs the entry into any premises or other place where arms or ammunition are or is manufac-

tured or kept or intentionally fails to exhibit or conceals such arms or ammunition or refuses to point out where the same are or is manufactured or kept;

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) Whoever being a person to whom sub-clause (*i*) of clause (*a*) of sub-section (*1*) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) Whoever having sold or transferred any firearms or ammunition or other arms under the proviso to section 5 fails to inform the district magistrate having jurisdiction or the officer in charge of the nearest police station, of such sale or transfer shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

(4) Whoever fails to deliver-up a licence when so required by the licensing authority under sub-section (*1*) of section 17 for the purpose of varying the conditions specified in the licence or fails to surrender a licence to the appropriate authority under sub-section (*10*) of that section on its suspension or revocation shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

(5) Whoever, when required under section 19 to give his name and address, refuses to give such name and address or gives a name or address which subsequently transpires to be false shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to two hundred rupees, or with both.

Secret contraventions.

26. Whoever—

(*a*) does any act in contravention of any of the provisions of sections 3, 4, 5, 6, 7, 10, 11 or 12 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance; or

(*b*) on any search being made under section 22 conceals or attempts to conceal any arms or ammunition;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Punishment for possessing arms, etc., with intent to use them for unlawful purpose.

27. Whoever has in his possession any arms or ammunition with intent to use the same for any unlawful purpose or to enable any other person to use the same for any unlawful purpose shall, whether such unlawful purpose has been carried into effect or not, be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Punishment for use and possession of firearms or imitation firearms in certain cases.

28. Whoever makes or attempts to make any use whatsoever of a firearm or an imitation firearm with intent to resist or prevent the lawful arrest or detention of himself or any other person shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Explanation.—In this section the expression "imitation firearm" has the same meaning as in section 6.

Punishment for knowingly purchasing arms, etc., from unlicensed person or for delivering arms, etc., to person not entitled to possess the same.

29. Whoever—

(*a*) purchases any firearms or any other arms of such class or description as may be prescribed or any ammunition from any other person knowing that such other person is not licensed or authorised under section 5; or

(*b*) delivers any arms or ammunition into the possession of another person without previously ascertaining that such other person is entitled by virtue of this Act or any other law for the time being in force to have, and is not prohibited by this Act or such other law from having, in his possession the same;

shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

Punishment for contravention of licence or rule.

30. Whoever contravenes any condition of a licence or any provision of this Act or any rule made thereunder, for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment for subsequent offences.

31. Whoever having been convicted of an offence under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence.

Power to confiscate.

32. (*1*) When any person is convicted under this Act of any offence committed by him in respect of any arms or ammunition, it shall be in the discretion of the convicting court further to direct that the whole or any portion of such arms or ammunition, and any vessel, vehicle or other means of conveyance and any receptacle or thing containing, or used to conceal, the arms or ammunition shall be confiscated:

Provided that if the conviction is set aside on appeal or otherwise, the order of confiscation shall become void.

(2) An order of confiscation may also be made by the appellate court or by the High Court when exercising its powers of revision.

Offences by companies.

33. (1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

Sanction of Central Government for warehousing of arms.

34. Notwithstanding anything contained in the Sea Customs Act, 1878, no arms or ammunition shall be deposited in any warehouse licensed under section 16 of that Act without the sanction of the Central Government. 8 of 1878.

Criminal responsibility of persons in occupation of premises in certain cases.

35. Where any arms or ammunition in respect of which any offence under this Act has been or is being committed are or is found in any premises, vehicle or other place in the joint occupation or under the joint control of several persons, each of such persons in respect of whom there is reason to believe that he was aware of the existence of the arms or ammunition in the premises, vehicle or other place shall, unless the contrary is proved, be liable for that offence in the sme manner as if it has been or is being committed by him alone.

Information to be given regarding certain offences.

36. (*1*) Every person aware of the commission of any offence under this Act shall, in the absence of reasonable excuse the burden of proving which shall lie upon such person, give information of the same to the officer in charge of the nearest police station or the magistrate having jurisdiction.

(*2*) Every person employed or working upon any railway, aircraft, vessel, vehicle or other means of conveyance shall, in the absence of reasonable excuse the burden of proving which shall lie upon such person, give information to the officer in charge of the nearest police station regarding any box, package or bale in transit which he may have reason to suspect contains arms or ammunition in respect of which an offence under this Act has been or is being committed:

Arrest and searches.

37. Save as otherwise provided in this Act,—

(*a*) all arrests and searches made under this Act or under any rules made thereunder shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating respectively to arrests and searches made under that Code; 5 of 1898.

(*b*) any person arrested and any arms or ammunition seized under this Act by a person not being a magistrate or a police officer shall be delivered without delay to the officer in charge of the nearest police station and that officer shall—

(*i*) either release that person on his executing a bond with or without sureties to appear before a magistrate and keep the things seized in his custody till the appearance of that person before the magistrate, or

(*ii*) should that person fail to execute the bond and to furnish, if so required, sufficient sureties, produce that person and those things without delay before the magistrate.

Offences to be cognizable. 5 of 1898.

38. Every offence under this Act shall be cognizable within the meaning of the Code of Criminal Procedure, 1898.

Previous sanction of the district magistrate necessary in certain cases.

39. No prosecution shall be instituted against any person in respect of any offence under section 3 without the previous sanction of the district magistrate.

Protection of action taken in good faith.

40. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to exempt.

41. Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—

(*a*) exempt any person or class of persons, or exclude any description of arms or ammunition, or withdraw any part of India, from the operation of all or any of the provisions of this Act; and

(*b*) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons or the description of arms and ammunition or the part of India to the operation of such provisions.

Power to take census of firearms.

42. (*1*) The Central Government may, by notification in the Official Gazette, direct a census to be taken of all firearms in any area and empower any officer of Government to take such census.

(*2*) On the issue of any such notification all persons having in their possession any firearm in that area shall furnish to the officer concerned such information as he may require in relation thereto and shall produce before him such firearms if he so requires.

Power to delegate.

43. (*1*) The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under section 41 or the power under section 44 may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed also by—

(*a*) such officer or authority subordinate to the Central Government, or

(*b*) such State Government or such officer or authority subordinate to the State Government,

as may be specified in the notification.

(*2*) Any rules made by the Central Government under this Act may confer powers or impose duties or authorise the conferring of powers or imposition of duties upon any State Government or any officer or authority subordinate thereto.

Power to make rules.

44. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the appointment, jurisdiction, control and functions of licensing authorities;

(b) the form and particulars of application for the grant or renewal of a licence and where the application is for the renewal of a licence, the time within which it shall be made;

(c) the form in which and the conditions subject to which any licence may be granted or refused, renewed, varied, suspended or revoked;

(d) where no period has been specified in this Act, the period for which any licence shall continue to be in force;

(e) the fees payable in respect of any application for the grant or renewal of a licence and in respect of any licence granted or renewed and the manner of paying the same;

(f) the manner in which the maker's name, the manufacturer's number or other identification mark of a firearm shall be stamped or otherwise shown thereon;

(g) the procedure for the test or proof of any firearms;

(h) the firearms that may be used in the course of training, the age-limits of persons who may use them and the conditions for their use by such persons;

(i) the authority to whom appeals may be preferred under section 18, the procedure to be followed by such authority and the period within which appeals shall be preferred, the fees to be paid in respect of such appeals and the refund of such fees;

(j) the maintenance of records or accounts of anything done under a licence other than a licence under section 3 or section 4, the form of, and the entries to be made in, such records or accounts and the exhibition of such records or accounts to any police officer or to any officer of Government empowered in this behalf;

(k) the entry and inspection by any police officer or by any officer of Government empowered in this behalf of any premises or other place in which arms or ammunition are or is manufactured or in which arms or ammunition are or is kept by a

manufacturer of or dealer in such arms or ammunition and the exhibition of the same to such officer;

(*l*) the conditions subject to which arms or ammunition may be deposited with a licensed dealer or in a unit armoury as required by sub-section (*1*) of section 21 and the period on the expiry of which the things so deposited may be forfeited;

(*m*) any other matter which is to be, or may be prescribed.

(*3*) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Act not to apply in certain cases.

45. Nothing in this Act shall apply to—

(*a*) arms or ammunition on board any sea-going vessel or any aircraft and forming part of the ordinary armament or equipment of such vessel or aircraft;

(*b*) the acquisition, possession or carrying, the manufacture, repair, conversion, test or proof, the sale or transfer or the import export or transport of arms or ammunition—

(*i*) by or under orders of the Central Government, or

(*ii*) by a public servant in the course of his duty as such public servant, or

(*iii*) by a member of the National Cadet Corps raised and maintained under the National Cadet Corps Act, 1948, or by any officer or enrolled person of the Territorial Army raised and maintained under the Territorial Army Act, 1948, or by any member of any other forces raised and maintained or that may hereafter be raised and maintained under any Central Act, or by any member of such other forces as the Central Government may, by notification in the Official Gazette, specify, in the course of his duty as such member, officer or enrolled person;

31 of 1948.

56 of 1948.

(*c*) any weapon of an obsolete pattern or of antiquarian value or in disrepair which is not capable of being used as a firearm either with or without repair;

(*d*) the acquisition, possession or carrying by a person of minor parts of arms or ammunition which are not intended to be used along with complementary parts acquired or possessed by that or any other person.

Repeal of Act 11 of 1878.

11 of 187[illegible] 5 **46.** (*1*) The Indian Arms Act, 1878, is hereby repealed.

11 of 1878 (*2*) Notwithstanding the repeal of the Indian Arms Act, 1878, and without prejudice to the provisions of sections 6 and 24 of the General

10 of 1897. Clauses Act, 1897, every licence granted or renewed under the first-mentioned Act and in force immediately before the commencement of this Act shall, unless sooner revoked, continue in force after such commencement for the unexpired portion of the period for which it has been granted or renewed.

M. N. KAUL,
Secretary.

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